

04-185

STATUS OF FORCES AGREEMENT
Concluded Pursuant to Section 323 of
The Compact of Free Association, as amended

Agreement in Implementation
of Section 323 of
The Compact of Free Association, as amended

Status of Forces Agreement

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STATUS OF FORCES AGREEMENT
Concluded Pursuant to Section 323 of
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This Agreement is concluded by the Signatory Governments and sets forth the legal status of the Armed Forces of the United States, their members, and associated civilians, while present in the Republic of the Marshall Islands pursuant to Section 323 of the Compact of Free Association (the Compact), as amended.

Article I

Definitions

Article I

Definitions

1. The Definition of Terms set forth in Article VI of Title Four of the Compact, as amended is incorporated into this Agreement.

2. For the purposes of this Agreement only, the following terms shall have the following meanings:

(a) "Armed Forces of the United States" means the land, sea and air armed forces of the United States of America, including the Coast Guard.

(b) "United States Contractors" means the legal entities, including corporations and natural persons, present in the Republic of the Marshall Islands for the purpose of executing their contracts with the Government of the United States, or subcontracts of such contracts, in support of the Armed Forces of the United States and designated as such by the Government of the United States. The term "United States Contractors" does not include local contractors.

(c) "Local Contractors means the legal entities, including corporations and natural persons organized under the laws of, and who are in, the Republic of the Marshall Islands.

(d) "United States Personnel" means anyone who is included in any of the following categories:

(1) "members of the force" -- all military personnel, notwithstanding their citizenship or nationality, on duty with the Armed Forces of the United States who are in the Republic of the Marshall Islands;

(2) "members of the civilian component" -- all civilian persons, notwithstanding their citizenship or nationality, except local hire personnel, who are in the Republic of the Marshall Islands, and who are in the employ of, serving with, or accompanying the Armed Forces of the United States;

(3) "contractor personnel" -- natural persons, who are United States citizens or nationals or United States permanent resident aliens, except local hire personnel, who are in the Republic of the Marshall Islands, and who are United States contractors or officers or employees of United States contractors; or

(4) "dependents" -- the spouses and dependents of persons included in paragraphs 2(d)(1) and 2(d)(2) who are listed on official United States Government travel orders (including children of persons included in paragraphs 2(d)(1) and 2(d)(2), whether or not they are listed on official United States Government orders, who are born after such persons' arrival in the Republic of the Marshall Islands), and the spouses and dependents of persons included in paragraph 2(d)(3) of this Article and, while members of the household of such persons, other relatives or wards of such persons or their spouses.

(e) "Third Country Contractor Personnel" means natural persons other than United States personnel or local hire personnel who are lawfully in the Republic of the Marshall Islands and who are United States contractors or officers of employees of United States contractors or dependents of any of them.

(f) "*Local Hire Personnel*" means citizens of the Republic of the Marshall Islands who are employed in the Republic of the Marshall Islands by the Armed Forces of the United States or United States contractors.

(g) "Defense Sites" Means "Military Areas and Facilities" as defined in Section 461 (i) of the Compact, as amended.

(h) "Judge" means any judicial officer of a Signatory Government who has the authority to issue a warrant of arrest or its equivalent and for purposes of this Agreement, except for paragraph 6(c) of Article XII, shall also include judicial officers certified as such by the Government concerned.

Article II

Movement

Article II

Movement

1. Consistent with the Compact, as amended, this Agreement and any other agreements concluded between the Government of the United States and the Government of the Republic of the Marshall Islands in accordance with Sections 321 and 323 of the Compact, as amended:

(a) All aircraft, vessels and vehicles operated by, for, or under the control of the Armed Forces of the United States or United States contractors shall enjoy freedom of movement in the Republic of the Marshall Islands;

(b) Such aircraft, vessels and vehicles shall be operated in a manner which *minimizes danger to persons and property and interference with trade, commerce, exploration and exploitation of living and non-living resources of the sea; and*

(c) Movement of such aircraft, vessels and vehicles in the Republic of the Marshall Islands, including access to and use by them of defense sites, ports, harbors and airfields, shall not be subject to any taxes, fees or other charges, except those fees or other charges set forth in paragraph 2 of this Article.

2. The Armed Forces of the United States and United States contractors shall pay, at generally prevailing rates unless otherwise agreed, for specific services rendered at their request, including materials received at their request in connection with the use of ports, harbors and airfields in the Republic of the Marshall Islands. Such services and materials may include fuel, towing, mechanical servicing and utilities.

Article III

Entry and Departure

Article III

Entry and Departure

1. The Government of the United States may bring into the Republic of the Marshall Islands:

(a) United States personnel and United States contractors; and

(b) Third country contractor personnel consistent with those laws of the Republic of the Marshall Islands relating to the exclusion of individual, undesirable aliens and taking into account paragraph 5 of this Article and Article IV of this Agreement.

2. United States personnel shall be exempt from the passport and visa laws and regulations of the Republic of the Marshall Islands. Taking into account paragraph 1(b) of this Article and Article IV of this Agreement, applications of third country contractor personnel for visas shall be granted or denied expeditiously. All United States and third country contractor personnel shall comply with medical immunization and other health requirements of the Republic of the Marshall Islands.

(a) No United States personnel or third country contractor personnel shall acquire any right to permanent residence or domicile solely as a result of their being United States personnel or third country contractor personnel.

(b) United States personnel shall be exempt from laws and regulations of the Republic of the Marshall Islands on the entry, departure, registration and control of aliens and foreign agents.

3. Upon entry into or departure from the Republic of the Marshall Islands, United States personnel shall have in their possession official orders or documents certifying the status of the individual or group. Such orders or documents shall be shown on request to the appropriate authorities of the Republic of the Marshall Islands Government.

4. For the purpose of their identification while in the Marshall Islands, United States personnel ten years of age or older shall have in their possession a personal identification card authorized by the Government of the United States which shall show the name, date of birth, status, and photograph of the bearer. Such card shall be shown on request to the appropriate authorities of the Government of the Republic of the Marshall Islands.

5. Should the Government of the Marshall Islands request the removal from the Marshall Islands, of any United States personnel or any third country contractor personnel, the request shall be referred to the Joint Committee established pursuant to Section 351 of the Compact, as amended for resolution in accordance with that Section, unless the Government of the United States receives the person concerned within its own territory

or otherwise effects the departure of such person outside the territory of the requesting Government. Section 351 of the Compact, as amended, is incorporated by reference into, and becomes a part of, this Agreement. If the Joint Committee so determines, the person concerned shall immediately become subject to the jurisdiction of the Government of the Republic of the Marshall Islands in accordance with its laws.

6. Transportation costs attendant to the departure and removal of third country contractor personnel shall be the responsibility of the Government of the United States.

Article IV

Utilization of Contractors and Employment of Labor

Article IV

Utilization of Contractors and Employment of Labor

1. In the establishment, maintenance, and use and operation of defense sites and in the execution of obligations undertaken by the Government of the United States in the Compact, as amended, and its related Agreements, the Armed Forces of the United States, United States contractors and local contractors:

(a) May employ persons possessing requisite skills and qualifications.

Employment preference shall be given, without discrimination, to citizens of the Republic of the Marshall Islands and to citizens, nationals and permanent resident aliens of the United States. In the employment of such persons pursuant to the preferences set forth in this paragraph, the Armed Forces of the United States and United States contractors shall exercise their best efforts to employ persons present in the Republic of the Marshall Islands; and

----- (b) Shall utilize without discrimination, consistent with the laws and regulations of the United States, qualified local contractors to the maximum extent feasible, and qualified contractors which are legal entities of the United States. The Armed Forces of the United States and United States contractors shall ensure that the specifications and instructions for contract bids shall permit such free and full competition as is consistent with the procurement of the goods and services needed by the Government of the United States.

(c) Shall, in consultation with the Government of the Republic of the Marshall Islands, establish procedures for local sourcing of products, works, and services where there are qualified local contractors.

2. Prior to the employment of third country personnel or the utilization of third country contractors, the Government of the United States shall notify the Government of the Republic of the Marshall Islands of that intent, in writing, and shall consult, if requested within thirty days of such notification, with the Government of the Republic of the Marshall Islands as to the availability of qualified local hire personnel or qualified local contractors. If a response is not received by the United States within thirty days after notification, the United States or its contractor may proceed with the hiring action.

3. The Government of the United States may hire third country contractor personnel without notification under paragraph 2, for periods of temporary duty of ninety days or less within a twelve-month period if qualified local hire personnel are not available.

4. The laws and regulations of the Republic of the Marshall Islands shall not apply to the terms and conditions of employment of the United States personnel or third country contractor personnel by the Armed Forces of the United States of United States

contractors. The Government of the Republic of the Marshall Islands shall not require United States personnel, third country contractor personnel or United States contractors to obtain any license, permit or certificate, or to undergo any examination, in connection with the performance of their duties on behalf of the Armed Forces of the United States. For purposes of this paragraph only, United States Personnel shall not include relatives (other than spouses and children) or wards of members of the force, members of the civilian component, or contractor personnel, or spouses of such relatives or wards.

5. In the employment of local hire personnel by the Armed Forces of the United States and United States contractors, the Government of the United States shall adopt measures consistent with the standards of local labor laws to the extent they are compatible with the laws, regulations and operational requirements of the United States.

Article V

Taxes and Customs

Article V

Taxes and Customs

1. The following are exempt from any tax, fee or similar charge imposed by the Government of the Republic of the Marshall Islands:

(a) The services, activities, facilities, equipment, material, income or any other property or transactions of the Armed Forces of the United States or United States contractors;

(b) The ownership, possession, use, or transfer inter se by United States personnel, by death or otherwise, of real or personal property, tangible or intangible, wherever located; and

(c) Income received by United States personnel for services with or employment by the Armed Forces of the United States or United States contractors, or from sources outside the territory of the Republic of the Marshall Islands, except that United States contractor personnel and dependents who are also United States contractor personnel are not exempt from a personal income tax generally applicable within the Republic of the Marshall Islands up to a level of five percent of their annual income derived from their employment in the Republic of the Marshall Islands by United States contractors. After Fiscal Year 2016, the United States and the Republic of the Marshall Islands shall, from time to time, review jointly the foregoing personal income tax rate taking into consideration the tax revenues derived from local hire personnel and local contractors at United States defense sites in the Republic of the Marshall Islands.

2. Third country contractor personnel shall be subject to income tax generally applicable in the Republic of the Marshall Islands.

3. All materials, equipment and other property imported or exported by or on behalf of the Armed Forces of the United States, or United States contractors for the use or benefit of the Armed Forces of the United States, United States contractors, United States personnel, or third country contractor personnel shall be permitted entry into and exit from the Republic of the Marshall Islands free from customs duties, license requirements, and other import and export taxes, fees or charges.

4. United States personnel may import into and export from the Marshall Islands furniture, household goods and personal effects for their personal or family use, including all forms of privately owned land, sea and air transportation, free from customs duties, license requirements, and other import and export taxes, fees or charges.

5. The following are exempt from customs examination by the Government of the Republic of the Marshall Islands:

(a) Members of the force, members of the civilian component and the dependents of both when entering or leaving the Republic of the Marshall Islands under official orders except when under leave orders;

(b) Documents under official seal, and mail in the United States military postal channels; and

(c) Cargo consigned to or shipped by the Armed Forces of the United States or United States contractors.

6. The Armed Forces of the United States, in cooperation with the Government of the Republic of the Marshall Islands, shall take appropriate measures, including inspection, to prevent the importation of contraband and to prevent abuse of privileges granted under this Article.

7. Should property imported into the Republic of the Marshall Islands under the exemptions provided by this Article subsequently be transferred to a person not entitled to such exemptions, such person shall be liable for import duties and other charges according to the laws and regulations of the Government of the Republic of the Marshall Islands.

8. Animals and plants, including fruits and vegetables, imported by United States personnel, subject to the provisions of this Article, and by third country contractor personnel shall be subject to the laws and regulations of the Republic of the Marshall islands governing such inspection of and restriction on such importations.

Article VI
Service Facilities

Article VI

Service Facilities

The Armed Forces of the United States may authorize the establishment, use, operation and maintenance within defense sites in the Republic of the Marshall Islands of service, educational and recreational facilities. Such facilities and their related activities, including the importation, purchase, sale or dispensing of merchandise and services by them shall be exempt from all taxes, customs duties, fees, charges and license requirements of the Government of the Republic of the Marshall Islands.
